

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shadman Khan	Team: Squad #3	CCRB Case #: 202104332	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 11/05/2020 6:00 PM	Location of Incident: Intersection of Bond Street and Broadway	Precinct: 09	18 Mo. SOL 5/5/2022	EO SOL 5/5/2022	
Date/Time CV Reported Thu, 07/22/2021 11:21 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 07/22/2021 11:21 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Gregory Reisert	14672	957077	SRG 1
3. SGT Kenneth Rice	04867	952164	LEG BUR
4. PO Jamielee Cooper	22400	962994	SRG 1
5. PO Michael Poletto	03762	925931	SRG 1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Brian Verkay	02358	935930	SRG 1

Officer(s)	Allegation	Investigator Recommendation
A.POM Gregory Reisert	Force: Police Officer Gregory Reisert struck § 87(2)(b) with a bicycle.	
B.POM Gregory Reisert	Force: Police Officer Gregory Reisert used physical force against § 87(2)(b)	
C.SGT Kenneth Rice	Force: Sergeant Kenneth Rice used physical force against § 87(2)(b)	
D. Officers	Force: Officers used physical force against § 87(2)(b)	
E. Officers	Force: Officers used a chokehold against § 87(2)(b)	
F. Officers	Force: Officers restricted § 87(2)(b)'s breathing.	
G.PO Jamielee Cooper	Abuse: Police Officer Jamielee Cooper did not obtain medical treatment for individuals.	
H.PO Jamielee Cooper	Abuse: Police Officer Jamielee Cooper did not obtain medical treatment for § 87(2)(b)	
I.PO Michael Poletto	Abuse: Police Officer Michael Poletto did not obtain medical treatment for individuals.	
J.PO Michael Poletto	Abuse: Police Officer Michael Poletto did not obtain medical treatment for § 87(2)(b)	
K. Officers	Abuse: Officers threatened § 87(2)(b) with the use of force.	

### Case Summary

On July 22, 2021, § 87(2)(b) filed this complaint with the CCRB using the call processing system.

On November 5, 2020, at approximately 6:00p.m., at the intersection of Bond Street and Broadway in Manhattan, § 87(2)(b) walked down Broadway when PO Gregory Reiser from SRG 1 instructed § 87(2)(b) to get on the sidewalk and pushed him back with his bicycle (**Allegation A: Force,** § 87(2)(g) PO Reiser then grabbed § 87(2)(b) by the chain on his neck and pulled him forward so that § 87(2)(b) landed on top of PO Reiser in the street (**Allegation B: Force,** § 87(2)(g) While on the ground, Sgt. Kenneth Rice from the NYPD Legal Bureau (**Allegation C: Force,** § 87(2)(g) and unidentified officers punched and kicked § 87(2)(b) (**Allegation D: Force,** § 87(2)(g) An officer pulled the chain on § 87(2)(b)'s neck, choking him (**Allegation E and F: Force,** § 87(2)(g)

§ 87(2)(b) was arrested and placed in a prisoner van with several other unidentified prisoners. The individuals in the vehicle and § 87(2)(b) all requested medical attention from PO Jamielee Cooper, of SRG1, but did not receive any (**Allegation G: Abuse of Authority,** § 87(2)(g) (**Allegation H: Abuse of Authority,** § 87(2)(g) The individuals and § 87(2)(b) also requested medical attention from PO Michael Poletto, also of SRG1 (**Allegation I and J: Abuse of Authority,** § 87(2)(g) When the van arrived at the stationhouse, an officer removed the other prisoners from the van. Two officers also attempted and failed to remove § 87(2)(b) from the van. The officers threatened to use a Taser against § 87(2)(b) (**Allegation K: Abuse of Authority,** § 87(2)(g) § 87(2)(b) was charged with assaulting an officer, criminal obstruction of breathing, resisting arrest, disorderly conduct, and obstructing governmental administration.

The investigation received a total of 12 body-worn camera (BWC) videos from Sgt. Brian Verkay, PO Gregory Reiser, PO Michael Poletto, and PO Jamielee Cooper from SRG 1 (Board Review 01 and Board Review 02 - Board Review 13; Summarized in Board Review 14 - 25). The investigation received a total of 69 TARU camera videos regarding the incident (Board Review 26, Summarized in Board Review 27). The investigation received a video § 87(2)(b)

This complaint was added to the Agency's sensitive case list due to media coverage of the incident (Board Review 60).

### Findings and Recommendations

**Allegation (A) Force: Police Officer Gregory Reiser struck § 87(2)(b) with a bicycle.**

**Allegation (B) Force: Police Officer Gregory Reiser used physical force against § 87(2)(b).**

**Allegation (C) Force: Sergeant Kenneth Rice used physical force against § 87(2)(b)**

**Allegation (D) Force: Officers used physical force against § 87(2)(b)**

In his statement to the CCRB (Board Review 30), § 87(2)(b) stated that he was on his way to a donut shop when he reached the intersection of Bond Street and Broadway. § 87(2)(b) wore a metal chain weighing around 20 to 40 pounds around his neck at the time. The chain was looped twice around his neck, forming one larger loop and one short loop. § 87(2)(b) saw a large group of Black Lives Matter protestors and believed it to be a parade, so he took out his phone and started filming. § 87(2)(b) reached the edge of the sidewalk and stood behind the curb when PO Reiser approached § 87(2)(b) PO Reiser instructed § 87(2)(b) to, "Get back on the sidewalk," multiple times. When § 87(2)(b) argued that he was on the sidewalk, PO Reiser pushed him with his bicycle, causing him to move back by one foot. § 87(2)(b) was already on the sidewalk

when he was first pushed, so § 87(2)(b) stepped back to where he had been standing initially. PO Reisert stated, “Get back or else,” to which § 87(2)(b) responded, “Or what?” PO Reisert pushed § 87(2)(b) again and then grabbed him by the shorter loop of the chain around § 87(2)(b)'s neck. PO Reisert pulled § 87(2)(b) forward towards a group of officers. § 87(2)(b) reacted by grabbing onto PO Reisert, though he could not describe how he did this. PO Reisert landed on the street on his back with § 87(2)(b) on top of him. Multiple other officers began to use force against § 87(2)(b) by kicking and punching him. § 87(2)(b) denied that he attempted to strike or injure PO Reisert or any other officer. § 87(2)(b) said he had a video that depicted 14 officers striking him with their fists, knees, elbows, and stomping on his ankles and wrists. He also stated that the video showed officers punching him in the back of the head and using the chain around his neck to choke him. § 87(2)(b) was then placed in handcuffs. § 87(2)(b) failed to provide the CCRB with the video that he mentioned during his interview.

In the cellphone video footage of the incident received from § 87(2)(b) multiple officers are seen on the floor, pulling § 87(2)(b). The video is mostly obstructed by the bodies of multiple unidentified officers and does not contain clear depictions of the alleged force used against § 87(2)(b). A civilian is heard stating, “Fuck him up. Let’s kill these cops,” but it is unclear what this is in reference to. The chain § 87(2)(b) had on his person is not visible in the video. (Board Review 28). No other relevant cell phone videos were found on social media.

In PO Reisert’s BWC video (Board Review 02), at 00m56s, PO Reisert moves his bicycle and positions it in between himself and several civilians on a sidewalk. At 01m00s, PO Reisert instructs § 87(2)(b) to get onto the sidewalk multiple times. The camera only captures § 87(2)(b) from the neck down, where the large metal chain is seen wrapped around his neck. § 87(2)(b) is approximately two feet away from the sidewalk, but slowly walks toward the sidewalk, just behind PO Reisert’s bicycle. It is unclear if he steps onto the sidewalk at this point. § 87(2)(b) faces PO Reisert and asks, “Or what?” in response to PO Reisert’s instruction and then repeats, “Or?” multiple times. PO Reisert instructs § 87(2)(b) to stop, who continues to repeat, “Or?” At 01m14s, PO Reisert does not push § 87(2)(b) with his bicycle. PO Reisert grabs § 87(2)(b) by the chest area using his right hand. It is unclear if he grabs the chain around § 87(2)(b)'s neck. § 87(2)(b) initially steps back but then moves forward again. PO Reisert grabs § 87(2)(b) again and the camera is then obstructed by § 87(2)(b)'s body. Due to the video only capturing § 87(2)(b)'s body from the neck down, it is unclear if § 87(2)(b) attempted to spit prior to being grabbed by PO Reisert. Muffled voices are heard shouting, “Get off,” in the background. PO Reisert’s camera does not contain any clear footage of what occurs during this portion of the incident due to the camera being obstructed by § 87(2)(b)'s body. At 02m11s, the camera shows § 87(2)(b) face down on the floor being handcuffed by PO Reisert and other officers.

In Sgt. Verkay’s BWC (Board Review 03), at 01m33s, Sgt. Verkay walks over to multiple officers who attempt to arrest an individual, identified by the investigation as § 87(2)(b). Officers are heard stating, “Stop resisting,” but it is unclear what actions § 87(2)(b) is taking due to the lack of light. Sgt. Verkay moves toward § 87(2)(b) and holds his left arm as § 87(2)(b) is turned onto his chest. Sgt. Verkay continues to hold him by the arm as handcuffs are placed on § 87(2)(b). Sgt. Verkay then steps back and PO Reisert is seen picking § 87(2)(b) up into a standing position. Sgt. Verkay immediately walks away afterwards. The initial moment where § 87(2)(b) was taken to the ground is not captured.

As a member of the Legal Bureau, Sgt. Rice was not assigned a BWC. A search of the BWC Deployment Roster, last updated February 4, 2021, confirmed that the Legal Bureau was not assigned any BWCs.

In the TARU camera video labeled MAH00087 (Board Review 26), which is 00m16s in length, § 87(2)(b) dressed in a green jacket with a pawprint logo on the back, is captured walking down the street on Broadway while holding the thick metal chain. In TARU camera video labeled MAH00088 (Board Review 14), at 00m11s, § 87(2)(b) is seen walking on the street and stating, "I'm going to the protest." At 00m44s, § 87(2)(b) faces an officer while stating, "Don't touch me," while holding up a finger to the officer. Multiple instructions are heard telling § 87(2)(b) to back up. It is unclear if § 87(2)(b) is on the street or sidewalk. At 01m13s, § 87(2)(b) is seen falling over and on the ground. Multiple officers move toward § 87(2)(b). Although unclear, it appears that at 01m22s an officer wearing a shirt that says "NYPD Legal" on the back swings his arm toward § 87(2)(b) multiple times. Two officers are seen on top of § 87(2)(b) attempting to pull him off. Multiple other officers surround § 87(2)(b) and attempt to pull him off of PO Reisert, but do not do anything else. At 01:29, an officer in a white shirt is seen moving forward and grabbing hold of a chain next to § 87(2)(b). He pulls the chain out and is last seen holding it. It is unclear where the chain was initially and whether it was around § 87(2)(b)'s neck or not. Approximately two to three officers hold § 87(2)(b) and place him in handcuffs.

In his statements to CCRB (Board Review 32, Board Review 33), PO Reisert stated that on the date of the incident, he was assigned to the location for a protest involving a disorderly group. When PO Reisert first responded, there were more than 200 protestors at the location. PO Reisert was instructed to clear the streets at the time. There were multiple white shirt officers on scene that could have given PO Reisert that instruction. Multiple civilians complied with PO Reisert's instruction to get off the street and onto the sidewalk. PO Reisert saw § 87(2)(b) walk diagonally across the street toward PO Reisert. PO Reisert instructed § 87(2)(b) multiple times to get off the street and onto the sidewalk. § 87(2)(b) refused to get onto the sidewalk and remained on the street. Every time PO Reisert instructed § 87(2)(b) to get onto the sidewalk, § 87(2)(b) repeatedly stated, "Or what?" and refused to get onto the sidewalk. PO Reisert instructed § 87(2)(b) to get off the street more than three times. PO Reisert attempted to guide § 87(2)(b) onto the sidewalk by holding his bicycle in front of him. § 87(2)(b) was close to the sidewalk at that time. § 87(2)(b) appeared as if he was about to spit toward PO Reisert by leaning towards him. At this point, PO Reisert decided to arrest § 87(2)(b) because he would not permit being spit on and due to his refusal to listen to the instruction to get off the street. Since there was a bicycle between PO Reisert and § 87(2)(b), PO Reisert decided to pull § 87(2)(b) over his to arrest him. When PO Reisert pulled § 87(2)(b), he noticed a large metal chain around § 87(2)(b)'s neck. PO Reisert denied pulling § 87(2)(b) by the chain around his neck. § 87(2)(b) fell on top of PO Reisert and held the metal chain with both hands around PO Reisert's neck and attempted to compress it around his neck. The chain did not reach PO Reisert's neck because of the chin guard that PO Reisert wore. PO Reisert pressed his chin guard towards his chest, preventing the chain from reaching his neck. Multiple other officers attempted to help PO Reisert by pulling § 87(2)(b) off of him. PO Reisert only prevented the chain from reaching his neck and attempted to push § 87(2)(b) off his body at the time. PO Reisert did not see any officer use hand strikes or knee strikes against § 87(2)(b). After approximately one-minute, other officers pulled § 87(2)(b) off of him. § 87(2)(b) was handcuffed.

In his statement to CCRB (Board Review 41), Sgt. Rice stated that he was at the incident location working as a Department Attorney. Sgt. Rice described the assignment as one where he provided legal advice to officers in the field for police details and other events. There were several hundred protestors at the time Sgt. Rice arrived at the location. The protest moved towards West 4 Street and had started from Stonewall Place on that day. Sgt. Rice initially saw § 87(2)(b) shouting from atop a lamppost with a chain around his neck. Sgt. Rice recalled looking at his partner and stating, "What is he doing up there?" At one point, Sgt. Rice saw one officer knocked off his bicycle by a civilian. Officers attempted to arrest the civilian and Sgt. Rice assisted with the arrest. During this

time, Sgt. Rice knelt down on the floor when he noticed § 87(2)(b) and PO Reisert approximately five feet away on his left side. Sgt. Rice did not hear any conversation between the two of them. Sgt. Rice saw § 87(2)(b) pounce on PO Reisert over a bicycle. § 87(2)(b) fell on top of PO Reisert, who fell on his back. § 87(2)(b) straddled PO Reisert and held a chain in both hands and held it against PO Reisert's throat. Based on Sgt. Rice's view, it appeared that the chain was on PO Reisert's throat and was choking him. PO Reisert appeared to hold his chin down and tried to stop § 87(2)(b) from placing the chain on his neck. Sgt. Rice went to assist PO Reisert by grabbing § 87(2)(b) by the shoulders and pulled him back. § 87(2)(b) continued to place the chain against PO Reisert's neck and refused to get off PO Reisert. Sgt. Rice used hand strikes on § 87(2)(b)'s head using a closed fist. Sgt. Rice did not recall how many times he struck § 87(2)(b). Sgt. Rice used the strikes to subdue § 87(2)(b) from placing the chain on PO Reisert's neck and to pull him off PO Reisert. Sgt. Rice did not use any knee strikes or kick § 87(2)(b) nor did he see other officers do so. After 30 seconds to a minute, Sgt. Rice and other officers pulled § 87(2)(b) off of PO Reisert and placed him in handcuffs.

In his statements to CCRB (Board Review 36, Board Review 37), Sgt. Verkay stated that he was at the incident location on a bicycle detail assignment. At the time of the incident, Sgt. Verkay noticed a disturbance of yelling and screaming and saw a large group of officers attempting to make an arrest of § 87(2)(b). Sgt. Verkay approached the group and saw more than two officers with § 87(2)(b). Sgt. Verkay later learned that PO Reisert was one of the officers involved in the incident. When Sgt. Verkay approached § 87(2)(b) he was already on the ground. Sgt. Verkay did not hear § 87(2)(b) state anything at the time. Sgt. Verkay did not see any officer punch or use any knee strikes against § 87(2)(b). While § 87(2)(b) was on the ground, Sgt. Verkay attempted to assist in placing him in handcuffs by grabbing one of his arms and placing it behind it back. Sgt. Verkay did not take any other physical action.

The investigation received TRI Report § 87(2)(b). The report was generated by Sgt. Verkay on November 5, 2020, at 11:00p.m. The location of occurrence is listed as Bond Street and Broadway in Manhattan. The report listed PO Gregory Reisert and Sgt. Kenneth Rice as the officers involved in the use of force. The report details showed that PO Reisert attempted to control a crowd when § 87(2)(b) became aggressive and appeared to be preparing to spit on PO Reisert. PO Reisert used a forcible takedown to arrest § 87(2)(b). § 87(2)(b) gained a position on top of PO Reisert and used a thick metal chain to attempt to strangle PO Reisert. PO Reisert blocked the chain with his chin guard on his bicycle helmet while § 87(2)(b) punched PO Reisert. Sgt. Rice observed the struggle and assisted. Sgt. Rice wrestled with § 87(2)(b) using several hand strikes on § 87(2)(b)'s head to terminate the assault on PO Reisert (Board Review 45).

The primary duty of all members of service (MOS) is to protect human life, including the lives of individuals being placed in police custody. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody to prevent escape from custody. In determining whether the use of force is reasonable, members of the service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject's violent history if known, presence of hostile crowd or agitators, and if the subject was under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence. All MOS are responsible and accountable for the proper use of force. NYPD Patrol Guide Procedure 221-01 (Board Review 47).

Although minor, spitting is an application of force to the body of the victim, a bodily contact intentionally highly offensive. People v. Carlson 183 Misc. 2d 630 (Board Review 55).

§ 87(2)(g) BWC video shows that PO Reisert placed his bicycle in between himself and § 87(2)(b) and did not use it to push him back, § 87(2)(g)

The statement given by § 87(2)(b) regarding standing on the sidewalk conflicted with the statements provided by PO Reisert, who stated that § 87(2)(b) refused to get off the street and onto the sidewalk. BWC video showed the initial moments of the incident where PO Reisert gave repeated instructions to § 87(2)(b) to get off the street and onto the sidewalk. While § 87(2)(b) made the statement, “Or what,” he is seen still walking towards the sidewalk while the instruction was being given. The video does not clearly capture if § 87(2)(b) stepped onto the sidewalk or not, preventing the investigation from determining if § 87(2)(b) refused to comply with PO Reisert’s instruction. PO Reisert further stated that his decision to arrest § 87(2)(b) was because § 87(2)(b) attempted to spit on him. The BWC video only recorded § 87(2)(b) from the chest down and does not show if § 87(2)(b) attempted to spit on PO Reisert. Further, Sgt. Rice added that from his perspective it appeared that § 87(2)(b) was lunging at PO Reisert before they fell. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) denied using any force against PO Reisert, which is disputed by both PO Reisert and Sgt. Rice, who both stated that § 87(2)(b) attempted to choke PO Reisert using a metal chain. Sgt. Rice stated that he punched § 87(2)(b) in order to subdue him and stop him from choking PO Reisert. TARU camera footage and the cellphone footage both show that § 87(2)(b) was on top of PO Reisert. However, neither video show if § 87(2)(b) used a chain to choke PO Reisert while on the ground or if he was merely on top of him as a result of the fall. While the § 87(2)(b) photographs contained images of the chain while § 87(2)(b) was on top of PO Reisert, § 87(2)(g)

§ 87(2)(b) BWC video contained obstructed and unclear footage of the incident as well, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

While § 87(2)(b) alleged that 14 officers punched and kicked him while he was on the ground, he was unable to describe these officers. Furthermore, § 87(2)(b) stated he had video that depicted these officers using force against him but failed to provide the video to the investigation. The videos that the investigation did receive only show multiple officers from different commands converging around § 87(2)(b) and PO Reisert at the time of the incident. Additionally, the videos do not clearly show any officers punching and kicking § 87(2)(b) while on the floor, other than Sgt. Rice as discussed in allegation C. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Force: Officers used a chokehold against § 87(2)(b)**

**Allegation (F) Force: Officers restricted § 87(2)(b)'s breathing.**

According to § 87(2)(b) (Board Review 30), while he was being punched and kicked, he felt someone pull the chain that was around his neck causing him to choke. § 87(2)(b) further stated that the video that he reviewed showed officers pulling the chain around his neck to choke him. § 87(2)(b) failed to provide the video that he referenced during his interview.

The investigation obtained eight photographs from § 87(2)(b), six of which showed parts of the incident with § 87(2)(b) (Board Review 44). Photograph 1 shows § 87(2)(b) on top of PO Reisert, with Sgt. Rice and an unidentified sergeant attempting to pull § 87(2)(b) off PO Reisert from behind. A large metal chain is seen near § 87(2)(b)'s neck. PO Reisert's left hand is seen close to the chain next to § 87(2)(b)'s neck, clenched into a closed fist. Based on the photograph, it is unclear if PO Reisert pulled against the chain or § 87(2)(b)'s clothes. An unidentified sergeant with a helmet (with the number 181 on the side) is seen behind § 87(2)(b) with his left hand on the left side of § 87(2)(b)'s body. His left hand is seen near the chain, but it is unclear if the left hand is clenched on the chain or not. No other identifying information is present that would help identify the sergeant. Photograph 2 showed PO Reisert on the ground with § 87(2)(b) on top of him. The chain is seen to the side of § 87(2)(b)'s neck but is unclear if it is wrapped around the neck. PO Reisert's left hand is seen behind § 87(2)(b)'s head and appeared to be holding the chain along with some clothing, while his right hand is placed on § 87(2)(b)'s face with an open palm. It is unclear if PO Reisert is pulling the chain. The unidentified sergeant behind § 87(2)(b) does not appear to have his hands on the chain. Photograph 3 shows PO Reisert on the floor and § 87(2)(b) on top of him. The chain appears to be between § 87(2)(b) and PO Reisert. PO Reisert appears to block the chain with his left arm. No officers are clearly seen pulling the chain. Sgt. Rice is seen with a cocked fist above § 87(2)(b)'s head. Photograph 4 shows PO Reisert getting off his back and § 87(2)(b) being moved off him. The chain is seen on the right side of § 87(2)(b)'s head but not around his neck. A white shirt officer's hands appear near the chain, but it is unclear what he is doing. The final two images only show § 87(2)(b) on the floor with officers around him.

TARU camera footage MAH00088 shows § 87(2)(b) on the floor on top of PO Reisert as Sgt. Rice and the unidentified sergeant attempt to pull him off. The chain is not clearly visible, and it is unclear if any officer pulls the chain while it is around § 87(2)(b)'s neck. An officer in a white shirt is seen moving forward and grabbing hold of the chain next to § 87(2)(b). He pulls the chain out and is seen holding it. It is unclear where the chain was initially and whether it was pulled against § 87(2)(b)'s neck. No identifying information is seen from for any of the officers (Board Review 26).

A search of the MOS Roster in CTS+ did not reveal any officers who were sergeants at the time of the incident with the shield number "181" (the number captured on the helmet of the unidentified sergeant seen in the Instagram photos).

According to PO Reisert, he did not grab hold of § 87(2)(b)'s chain while it was looped around § 87(2)(b)'s neck and he did not see any other officer do so. During this time, § 87(2)(b) did not complain of being unable to breathe. In his second interview with the CCRB, PO Reisert was shown Photograph 1, § 87(2)(b). PO Reisert affirmed that the photo showed that he attempted to get § 87(2)(b) off him and pointed out that the photograph showed him only grabbing the jacket. He further pointed out that the chain seen in the photograph appeared to be on top of PO Reisert's hand at the time, and he was not pulling on it. PO Reisert was shown Photograph 2, uploaded from the same user profile. PO Reisert stated that based on the photograph, PO Reisert pushed § 87(2)(b) by the face using one hand while attempting to pull

§ 87(2)(b) off by the clothing with the other hand. PO Reisert did not intentionally pull the chain around § 87(2)(b)'s neck. PO Reisert did not inadvertently pull the chain around § 87(2)(b)'s neck. PO Reisert only attempted to pull § 87(2)(b) off him by pulling his clothing. PO Reisert further added that his chin guard was above his eyes and § 87(2)(b)'s face blocked him, preventing him from seeing anything at the time. PO Reisert was unable to identify the officer with the helmet in the photographs, but stated it was likely a patrol sergeant that was on scene among the many other officers present (Board Review 32, Board Review 33).

According to Sgt. Rice, he did not see any officer pull § 87(2)(b)'s chain at any point. The chain was later taken by another officer on scene. Sgt. Rice did not see the chain around § 87(2)(b)'s neck at the time. Sgt. Rice did not hear § 87(2)(b) state that he was unable to breathe. Sgt. Rice did not hear anything § 87(2)(b) said. Sgt. Rice further stated he would not have been unable to hear if § 87(2)(b) stated anything due to it being a chaotic situation (Board Review 41).

According to Sgt. Verkay, he did not recall seeing any officer holding a chain that was around § 87(2)(b)'s neck. Sgt. Verkay saw an officer holding a chain in his BWC but did not know who this officer was. In his second interview with the CCRB, Sgt. Verkay was shown two § 87(2)(b) photographs. The photographs showed § 87(2)(b) on top of PO Reisert with a chain between them and near § 87(2)(b)'s neck. Sgt. Verkay stated that the photographs did not refresh any additional details of the incident and that he was unable to identify any of the officers in the photograph. Sgt. Verkay pointed out that he was not the officer seen in the photograph and that he did not wear the helmet depicted in the photograph. Sgt. Verkay was not aware of any officer pulling a chain around § 87(2)(b)'s neck (Board Review 36, Board Review 37).

§ 87(2)(b)'s statement regarding an officer pulling the chain on his neck directly conflicts with officer statements. All officers interviewed denied pulling any chain on § 87(2)(b)'s neck or seeing any other officer pull the chain. The § 87(2)(b) photographs show the chain in front of § 87(2)(b) at slightly different times during the incident but does not clearly show if the chain was around § 87(2)(b)'s neck or even pulled. Furthermore, the only officers that appear to have their hands near the chain are PO Reisert and an unidentified sergeant. An unidentified officer with a white shirt is also seen in a later photograph with his hands near the chain, but it is unclear what actions he took. The only video footage that shows the chain during the interaction is found in the TARU footage. However, the footage fails to clearly capture the interaction and does not show if any officer pulled the chain while it was around § 87(2)(b)'s neck. § 87(2)(g)

§ 87(2)(g)

**Allegation (G) Abuse of Authority: Police Officer Jamielee Cooper did not obtain medical treatment for Individuals.**

**Allegation (H) Abuse of Authority: Police Officer Jamielee Cooper did not obtain medical treatment for § 87(2)(b)**

**Allegation (I) Abuse of Authority: Police Officer Michael Poletto did not obtain medical treatment for Individuals.**

**Allegation (J) Abuse of Authority: Police Officer Michael Poletto did not obtain medical**



**treatment for § 87(2)(b)**

According to § 87(2)(b) (Board Review 30), he was handcuffed on the floor after the incident and then picked up into a standing position. § 87(2)(b) was instructed to get into a prisoner van with several other arrested individuals. While inside the van a female and male individual asked PO Cooper and PO Poletto for medical attention but did not receive any. PO Cooper recorded § 87(2)(b) and the individuals in the prisoner van using her BWC during transport. All of the individuals in the van asked for medical attention at that time but did not receive any. § 87(2)(b) estimated approximately 30 to 40 requests for medical attention. § 87(2)(b) requested medical attention at that time as well by stating, “I need medical attention,” in a loud voice.

In PO Cooper’s first BWC (Board Review 01), at 01m07s, § 87(2)(b) is seen picked up and by PO Reisert and another officer. § 87(2)(b) shouts that he did nothing and asks why he is in handcuffs. § 87(2)(b) is searched briefly as he continues to complain about being arrested. § 87(2)(b) enters the prisoner vehicle. Other civilians are processed in the same manner and placed into the prisoner vehicle. At 08m37s, PO Cooper enters the prisoner vehicle, where § 87(2)(b) and three other civilians are seen seated. The civilians complain of the arrest but no requests for medical attention are made by any individual. In PO Cooper’s second BWC video (Board Review 01), at 01m10s, PO Cooper places the camera so that it faces the civilians in the back of the van. At 02m13s, § 87(2)(b) walks up to the camera and states that he was illegally taken by the NYPD. The other civilians are seen speaking, but their conversation is not heard. At 04m30s, § 87(2)(b) asks for the air conditioner to be turned on. No requests for medical attention are heard. In a third BWC recording from PO Cooper (Board Review 04), at 15m18s of the recording, PO Cooper is outside facing the prisoner vehicle, where a male civilian inside of the vehicle asks for medical attention. The male states it is his 33<sup>rd</sup> time asking for medical attention. PO Cooper informs him that that a bus was called for him. PO Cooper then returns to the vehicle and continues to record the civilians in the back. § 87(2)(b) is not heard requesting medical attention at any point.

In PO Poletto’s first BWC (Board Review 05), he processes § 87(2)(b)’s arrest and searches him before placing him in the prisoner vehicle. § 87(2)(b) is heard shouting towards the officers and disputing his arrest. At 12m56s, § 87(2)(b) speaks directly toward PO Poletto and asks to have his handcuffs removed and questions why he is there. § 87(2)(b) does not request medical attention. At 29m37s, PO Poletto informs the civilians in the vehicle that they would be taken inside one at a time while exiting the vehicle. A voice is heard asking for medical attention as PO Poletto exits the vehicle. PO Poletto does not take any action or respond to the civilian. PO Poletto’s other BWC videos (Board Review 07, Board Review 09-Board Review 10, Board Review 12) do not capture any other requests for medical attention and are similar to PO Cooper’s BWC videos.

The investigation received negative results for any AIDED reports generated on the date of the incident (Board Review 49). The investigation received negative results for any Medical Treatment of Prisoner reports (MTPR) for § 87(2)(b) from the date of the incident (Board Review 50). A search of arrests made in the 9<sup>th</sup> Precinct on the incident date revealed three arrests from the incident location which were possibly related to this incident. However, the arrests were sealed and could not be accessed for additional information, including the identity of the prisoners (Board Review 59).

In her statement to the CCRB (Board Review 42), PO Cooper stated that she was at the incident location to pick up prisoners in a prisoner van. PO Cooper did not recall anything else regarding this incident. PO Cooper did not have any recollection of any prisoner asking for medical attention while inside of the prisoner van. PO Cooper did not have any recollection of § 87(2)(b) asking for medical attention. PO Cooper did not know if any civilian asked PO Poletto for any medical

attention. PO Cooper was shown her BWC footage, which showed a male asking for medical attention and PO Cooper stating an ambulance was called. PO Cooper stated that the video did not refresh any recollection of the incident. PO Cooper had no recollection of anyone asking for medical attention and the video did not refresh any sort of memory. PO Cooper did not know if any ambulance was called on scene. Once the prisoners were dropped off at the stationhouse, PO Cooper went to another location. PO Cooper did not witness the arrest of § 87(2)(b).

The investigation received confirmation from DAO that PO Michael Poletto retired from the NYPD on April 23, 2021 (Board Review 48).

When a prisoner in custody requires medical/psychiatric treatment, officers must request an ambulance and remove prisoner to hospital directly from place of arrest, if necessary. NYPD Patrol Guide Procedure 210-04: Prisoners Requiring Medical/Psychiatric Treatment (Board Review 51).

Although PO Cooper stated that she did not recall if any requests for medical attention were made by § 87(2)(b) or other individuals, her BWC video shows that one civilian did request medical attention. While the video showed that PO Cooper informed the civilian that an ambulance was on the way, disputing testimony from § 87(2)(b) and no method to identify the person who requested the medical attention prevented the investigation from knowing if any medical treatment was ever provided. § 87(2)(g)

Although § 87(2)(b) alleged asking for medical attention while inside of the prisoner vehicle, PO Cooper's and PO Poletto's BWC video show that he did not request medical attention at any point. The only statements made by § 87(2)(b) in the prisoner van were complaints regarding his arrest and a request to remove his handcuffs. Additionally, there were no records of any MTPR's being generated for § 87(2)(b) on the date of the incident. § 87(2)(g)

§ 87(2)(g)

**Allegation (K) Abuse of Authority: Officers threatened § 87(2)(b) with the use of force.**

According to § 87(2)(b) (Board Review 30), once the prisoner vehicle arrived at the stationhouse, officers started to remove the other prisoners from the van. Two unidentified officers in white shirts attempted to remove § 87(2)(b) from the vehicle. § 87(2)(b) was unable to move his body and the officers were unable to remove § 87(2)(b) from the van. The officers initially left and then returned and threatened to tase § 87(2)(b).

PO Poletto's second BWC video (Board Review 07) starts with PO Poletto facing the prisoners inside of the prisoner vehicle. At 01m20s, an officer asks § 87(2)(b) if he is ready, who responds that he will not get off the vehicle. § 87(2)(b) instructs PO Reisert not to put his hands on him and that he will, "flip out," if he does. § 87(2)(b) continues to refuse to get off the van as the other prisoners exit the vehicle. At 03m18s, PO Reisert tells § 87(2)(b) he has to get off the bus, who continues to refuse. An officer with a white shirt and five chevrons on his left sleeve tells § 87(2)(b) that he has to get off. He then enters the vehicle and is seen holding § 87(2)(b) around the chest area. At 04m15s, PO Poletto also enters the vehicle and the officer with the white shirt is heard repeating, "Let's go," multiple times. § 87(2)(b) is heard repeating, "Get off of me," as

the camera is obstructed. It is unclear what actions are taking place, but audio is still heard. § 87(2)(b) repeats, "Get off of me," in a louder volume as officers tell him to breathe and to get up. After a few moments, § 87(2)(b) gets off the bus willingly with PO Poletto and is transported into the stationhouse. Audio is captured clearly and uninterrupted for this entire incident and none of the officers present are heard threatening § 87(2)(b) with the use of a taser.

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- PO Reisert has been a member of service for seven years and has been a subject in three CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)  
§ 87(2)(g)
- Sgt. Rice has been a member of service for 10 years and has been a subject in three CCRB complaints and 14 CCRB allegations, none of which were substantiated. § 87(2)(g)  
§ 87(2)(g)
- PO Cooper has been a member of service for five years and a subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)  
§ 87(2)(g)
- PO Poletto has been a member of service for 21 years and a subject in one other CCRB complaint and six allegations, none of which were substantiated. § 87(2)(g)  
§ 87(2)(g) As of April 23, 2021, PO Poletto has retired from the NYPD.

#### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of May 10, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 58).
- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

Squad: 3

Investigator: Shadman Khan      Investigator Shadman Khan      July 18, 2022  
Signature      Print Title & Name      Date

Squad Leader: Rolando Vasquez      IM Rolando Vasquez      July 20, 2022  
Signature      Print Title & Name      Date